

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, and,
THE STATES OF CALIFORNIA,
FLORIDA, ILLINOIS, INDIANA,
MASSACHUSETTS, MINNESOTA,
MONTANA, NEW JERSEY, NEW
MEXICO, NEW YORK, AND
TENNESSEE, and THE DISTRICT OF
COLUMBIA, each ex rel. LYNNT OYA
WASHINGTON and MICHAEL T.
MAHONEY,

Plaintiffs,

vs.

EDUCATION MANAGEMENT
CORPORATION, EDUCATION
MANAGEMENT HOLDINGS LLC;
EDUCATION MANAGEMENT LLC; THE
ART INSTITUTE OF CALIFORNIA -
HOLLYWOOD; THE ART INSTITUTE OF
CALIFORNIA - INLAND EMPIRE; THE
ART INSTITUTE OF CALIFORNIA - LOS
ANGELES; THE ART INSTITUTE OF
CALIFORNIA - ORANGE COUNTY; THE
ART INSTITUTE OF CALIFORNIA -
SACRAMENTO; THE ART INSTITUTE
OF CALIFORNIA - SAN DIEGO; THE
ART INSTITUTE OF CALIFORNIA - SAN
FRANCISCO; THE ART INSTITUTE OF
CALIFORNIA - SUNNYVALE; ARGOSY
UNIVERSITY, INLAND EMPIRE;
ARGOSY UNIVERSITY, ONLINE DIVISION;
ARGOSY UNIVERSITY, ORANGE
COUNTY; ARGOSY UNIVERSITY, SAN
DIEGO; ARGOSY UNIVERSITY, SAN
FRANCISCO; ARGOSY UNIVERSITY,
SANTA MONICA; WESTERN STATE
UNIVERSITY COLLEGE OF LAW; THE
ART INSTITUTE OF FORT
LAUDERDALE; THE ART INSTITUTE OF
JACKSONVILLE; THE ART INSTITUTE
OF TAMPA; MIAMI INTERNATIONAL

CIVIL ACTION NO. 07-461

JUDGE McVERRY

(Electronic Filing)

JURY TRIAL DEMANDED

UNIVERSITY OF ART & DESIGN;)
 ARGOSY UNIVERSITY, SARASOTA;)
 ARGOSY UNIVERSITY, TAMPA; SOUTH)
 UNIVERSITY/WEST PALM BEACH;)
 SOUTH UNIVERSITY/TAMPA; SOUTH)
 UNIVERSITY ONLINE DIVISION;)
 BROWN MACKIE COLLEGE - MIAMI; THE)
 ILLINOIS INSTITUTE OF ART -)
 CHICAGO; THE ILLINOIS INSTITUTE)
 OF ART - SCHAUMBERG; ARGOSY)
 UNIVERSITY, CHICAGO; ARGOSY)
 UNIVERSITY, SCHAUMBURG; BROWN)
 MACKIE COLLEGE - MOLINE; THE ART)
 INSTITUTE OF INDIANAPOLIS; BROWN)
 MACKIE COLLEGE - MERRILLVILLE;)
 BROWN MACKIE COLLEGE - MICHIGAN)
 CITY; BROWN MACKIE COLLEGE -)
 FORT WAYNE; BROWN MACKIE)
 COLLEGE - SOUTH BEND; BROWN)
 MACKIE COLLEGE - INDIANAPOLIS;)
 THE ART INSTITUTE INTERNATIONAL)
 MINNESOTA; ARGOSY UNIVERSITY,)
 TWIN CITIES; BROWN MACKIE)
 COLLEGE - ALBUQUERQUE; THE ART)
 INSTITUTE OF NEW YORK CITY; THE)
 ART INSTITUTE OF TENNESSEE -)
 NASHVILLE; ARGOSY UNIVERSITY)
 NASHVILLE; THE ART INSTITUTE OF)
 ATLANTA; THE ART INSTITUTE OF)
 ATLANTA - DECATUR; THE ART)
 INSTITUTE OF AUSTIN; THE ART)
 INSTITUTE OF CHARLESTON; THE ART)
 INSTITUTE OF CHARLOTTE; THE ART)
 INSTITUTE OF COLORADO; THE ART)
 INSTITUTE OF DALLAS; THE ART)
 INSTITUTE OF FORT WORTH; THE ART)
 INSTITUTE OF HOUSTON; THE ART)
 INSTITUTE OF HOUSTON - NORTH;)
 THE ART INSTITUTE OF LAS VEGAS;)
 THE ART INSTITUTE OF MICHIGAN;)
 THE ART INSTITUTE OF OHIO -)
 CINCINNATI; THE ART INSTITUTE OF)
 PHILADELPHIA; THE ART INSTITUTE)
 OF PHOENIX; THE ART INSTITUTE OF)
 PITTSBURGH; THE ART INSTITUTE OF)
 PITTSBURGH ONLINE DIVISION;)
 THE ART INSTITUTE OF PORTLAND;)

CIVIL ACTION NO. 07-461

THE ART INSTITUTE OF)
 RALEIGH - DURHAM; THE ART)
 INSTITUTE OF SAN ANTONIO; THE ART)
 INSTITUTE OF SALT LAKE CITY; THE)
 ART INSTITUTE OF SEATTLE; THE ART)
 INSTITUTE OF TUCSON; THE ART)
 INSTITUTE OF VANCOUVER; THE ART)
 INSTITUTE OF VIRGINIA BEACH; THE)
 ART INSTITUTE OF WASHINGTON; THE)
 ART INSTITUTE OF WASHINGTON -)
 NORTHERN VIRGINIA; THE ART)
 INSTITUTE OF WISCONSIN; THE ART)
 INSTITUTE OF YORK - PENNSYLVANIA;)
 THE ART INSTITUTE INTERNATIONAL)
 - KANSAS CITY; THE NEW ENGLAND)
 INSTITUTE OF ART; ARGOSY)
 UNIVERSITY, ATLANTA; ARGOSY)
 UNIVERSITY, DALLAS; ARGOSY)
 UNIVERSITY, DENVER; ARGOSY)
 UNIVERSITY, HONOLULU; ARGOSY)
 UNIVERSITY, PHOENIX; ARGOSY)
 UNIVERSITY, SALT LAKE CITY;)
 ARGOSY UNIVERSITY, WASHINGTON)
 D.C.; SOUTH UNIVERSITY/SAVANNAH;)
 SOUTH UNIVERSITY/MONTGOMERY;)
 SOUTH UNIVERSITY/COLUMBIA;)
 SOUTH UNIVERSITY/RICHMOND;)
 SOUTH UNIVERSITY/NOVI; SOUTH)
 UNIVERSITY/VIRGINIA BEACH; BROWN)
 MACKIE COLLEGE - AKRON; BROWN)
 MACKIE COLLEGE - CINCINNATI;)
 BROWN MACKIE COLLEGE - FINDLAY;)
 BROWN MACKIE COLLEGE -)
 NORTHERN KENTUCKY; BROWN)
 MACKIE COLLEGE - NORTH CANTON;)
 BROWN MACKIE COLLEGE - ATLANTA;)
 BROWN MACKIE COLLEGE - KANSAS)
 CITY; BROWN MACKIE COLLEGE -)
 SALINA; BROWN MACKIE COLLEGE -)
 LOUISVILLE; BROWN MACKIE)
 COLLEGE - HOPKINSVILLE; BROWN)
 MACKIE COLLEGE - TUCSON; BROWN)
 MACKIE COLLEGE - BOISE; BROWN)
 MACKIE COLLEGE - TULSA; BROWN)
 MACKIE COLLEGE - PHOENIX; BROWN)
 MACKIE COLLEGE - GREENVILLE;)
 BROWN MACKIE COLLEGE - ST. LOUIS;)

CIVIL ACTION NO. 07-461

BROWN MACKIE COLLEGE - SAN)	
ANTONIO; THE ILLINOIS INSTITUTE OF)	
ART - TINLEY PARK; ARGOSY)	CIVIL ACTION NO. 07-461
UNIVERSITY - LOS ANGELES; SOUTH)	
UNIVERSITY - AUSTIN; BROWN)	
MACKIE COLLEGE - BIRMINGHAM;)	
BROWN MACKIE COLLEGE - QUAD)	
CITIES,)	
)	
Defendants.)	

COMPLAINT IN INTERVENTION BY THE STATE OF MINNESOTA

Plaintiff in Intervention, Lori Swanson in her capacity as Attorney General for the State of Minnesota, represents as follows:

I. INTRODUCTION

1. Plaintiff brings this action on behalf of the State of Minnesota (“Minnesota”) under the Minnesota False Claims Act, Minnesota Statutes Chapter 15C and the common law.

2. This action arises from the false or fraudulent claims that Defendants Education Management Corporation (“EDMC”) and its subsidiary corporations located within Minnesota, the Art Institutes International Minnesota and Argosy University – Twin Cities (hereinafter collectively referred to as “Defendants”), knowingly presented, or caused to be presented, to Minnesota and the Minnesota Office of Higher Education in violation of the Minnesota False Claims Act and the common law.

3. Defendants wrongly received and/or caused the disbursement of at least \$1.28 million dollars in state student aid funds pursuant to Minnesota’s student grant, aid, scholarship, and loan programs since at least July 1, 2010. The payment or approval of these funds was conditioned on Defendants’ qualification as “eligible institutions” pursuant to Minnesota Statutes section 136A.103 (2010). By presenting, or causing to present, claims for the payment or

approval of student aid funds to an officer or employee of the State of Minnesota, Defendants' represented that they were "eligible institutions," when in fact, Defendants' knew they did not qualify as "eligible institutions" and were not entitled to receive such funds.

4. Pursuant to the Minnesota False Claims Act and the common law claim of unjust enrichment, Minnesota seeks to recover damages, civil penalties, and costs arising from Defendants' illegal conduct.

II. JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to 31 U.S.C. §§ 3730 and 3732.

6. This Court has personal jurisdiction over Defendants pursuant to 31 U.S.C. § 3732(a) because Defendants transact business and are found in this District, and acts proscribed by 31 U.S.C. § 3729 occurred in this District.

7. This Court has jurisdiction over Minnesota's claims arising from the Minnesota False Claims Act pursuant to 31 U.S.C. § 3732(b).

8. This Court also has supplemental jurisdiction over Minnesota's unjust enrichment claim pursuant to 28 U.S.C. § 1367.

9. Venue is proper in this District pursuant to 31 U.S.C. § 3732(a), and under 28 U.S.C. §§ 1391(b) and 1395(a), because Defendant EDMC is a Pennsylvania Corporation with its principal office located in Pittsburgh, Pennsylvania. In addition, EDMC maintains and operates a traditional primary campus and online program within this District. Furthermore, certain of the acts that form the basis of this Complaint occurred in this District.

III. PARTIES

10. Plaintiff files this Complaint in Intervention pursuant to 31 U.S.C. § 3732(b) and Minnesota Statutes section 15C.06. Plaintiff was served with a copy of Relators' Second Amended Complaint on September 1, 2011 in accordance with the Minnesota Rules of Civil Procedure. Plaintiff timely asserts the causes of action alleged herein based on the filing of Relators' Complaint in this matter, which was filed under seal on or about April 5, 2007, insofar as the causes of action herein arise out of, or in any way relate to the conduct, transactions, or occurrences set forth in Relators' Complaint.

11. Relator Lynntoya Washington originally filed this action on behalf of the United States, the State of Minnesota, and for herself pursuant to the *qui tam* provisions of the federal False Claims Act, 31 U.S.C. § 3730(b)(1), and the Minnesota False Claims Act, Minn. Stat. § 15C.05. Relator Michael T. Mahoney joined in Ms. Washington's Second Amended Complaint, filed under seal on May 2, 2011. Relators were employed by EDMC and through their employment have obtained information and evidence, and have personal knowledge regarding the false claims, statements, certifications, and/or records that EDMC presented to the Department of Education and the State of Minnesota.

12. EDMC is one of the largest for-profit providers of postsecondary education in the nation, with over 158,300 enrolled students as of October 2010 and 105 primary locations located across 32 states. EDMC's net revenues in fiscal year 2011 were approximately \$2.8 billion. Federal financial aid funding for fiscal year 2011 constituted 90.3% of EDMC's net revenues. EDMC targets a large and diverse market of prospective students for recruitment by utilizing a variety of lead sources including web-based advertising, purchasing leads from aggregators, television and print media advertising, radio, local newspaper, telephone campaigns,

and direct mail campaigns. EDMC is a Pennsylvania corporation with its principal offices located at 210 Sixth Avenue, Pittsburgh, Pennsylvania.

13. Defendant the Art Institutes International Minnesota is wholly owned, either directly or indirectly, by EDMC and doing business at 15 South 9th Street, Minneapolis, Hennepin County, Minnesota 55402. Art Institutes International Minnesota was acquired or opened by EDMC in 1997 and offers programs in design, fashion, media arts, and culinary arts.

14. Defendant Argosy University – Twin Cities is wholly owned, either directly or indirectly, by EDMC and doing business at 1515 Central Parkway, Eagan, Dakota County, Minnesota 55121. Argosy University – Twin Cities was acquired or opened by EDMC in 2002 and offers programs in undergraduate studies such as liberal arts, psychology, business administration, and criminal justice as well as programs in psychology and behavioral sciences, health sciences, education, and business.

IV. STATUTORY BACKGROUND

15. Minnesota's False Claims Act ("MNFCA") is contained in Minnesota Statutes Chapter 15C and provides, in pertinent part, that a person is liable to Minnesota for a civil penalty ranging from \$5,500 to \$11,000, plus three times the amount of damages sustained by the state, for each instance in which the person knowingly: (1) "presents, or causes to be presented, to an officer or employee of the state . . . a false or fraudulent claim for payment or approval." Minn. Stat. § 15C.02.

16. For purposes of the MNFCA, "person" is defined as "a natural person, partnership, corporation, association or other legal entity." Minn. Stat. § 15C.01, subd. 5.

17. The MNFCA defines a "claim" to include "a request or demand, whether under a contract or otherwise, for money or property that is made by a contractor, grantee, or other recipient to the state," if the state: (1) "has provided or will provide a portion of the money or

property that is requested or demanded,” or (2) “has reimbursed or will reimburse the contractor, grantee, or other recipient for a portion of the money or property that is requested or demanded.” Minn. Stat. § 15C.01, subd. 2.

18. The MNFCA defines “knowingly” to mean that a person, with respect to information: (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information.” Minn. Stat. § 15C.01, subd. 3. No proof of specific intent to defraud is required to establish a “knowing” violation under the MNFCA. *Id.*

19. In addition to the civil penalties and treble damages imposed by the MNFCA, a person found to be in violation of Minnesota Statutes section 15C.02 is also liable to the state for “the costs of the civil action brought to recover any penalty or damages,” including reasonable attorney fees, and the fees of expert consultants and witnesses. Minn. Stat. §§ 15C.02(c), .12.

V. MINNESOTA’S FACTUAL ALLEGATIONS

A. Incorporation of the United States’ Allegations

20. Minnesota re-alleges and incorporates by reference the United States’ allegations made in paragraphs 36 through 168 of the Joint Complaint in Intervention by the United States of America and the States of California, Florida, Illinois, and Indiana (Case 2:07-cv-00461, Document 128), as though fully set forth herein.

B. Minnesota’s Disbursement and Defendants’ Receipt of Student Aid Funds is Conditioned on the Requirement that Defendants Qualify As “Eligible Institutions”

21. The Minnesota legislature has determined that it is in the best interests of the state and its students to encourage the educational development of economically disadvantaged students in eligible institutions. Minn. Stat. §§ 136A.095, 136A.1201. To further this policy, Minnesota has established several student grant, aid, scholarship and loan programs to

supplement federal and other sources of financial aid to ensure that students from low-income families may secure the benefits of a postsecondary education. Minn. Stat. § 136A.1201. These programs include state grants, child care grants, work study grants, GI Bill grants, safety officer survivor grants, Indian scholarships, Achieve scholarships, and Student Educational Loan Fund (SELF) loans (“Minnesota’s student financial aid programs”). Minn. Stat. §§ 136A.121, .125, .126, .127, .16, .233, 197.791, 299A.45.

22. The Minnesota Office of Higher Education (“OHE”) was established in order to, among other actions, administer the above-mentioned student financial aid programs and determine the eligibility of private institutions, such as Defendants, to receive student aid funds pursuant to the programs. Minn. Stat. §§ 136A.01, .16.

23. Each postsecondary institution located within Minnesota that wishes to receive student aid funds pursuant to the above-mentioned programs must qualify as an “eligible institution” pursuant to Minnesota Statutes section 136A.103. For private institutions, such as Defendants, to qualify as “eligible institutions” they must, “by July 1, 2010, participate in the federal Pell Grant program under Title IV of the Higher Education Act of 1965, Public Law 89-329, as amended (“HEA”).” Minn. Stat. §§ 136A.101, subd. 4, .103(b)(3), .15, subd. 6, .155.

24. To participate in the Pell Grant program, Defendants entered into program participation agreements (“PPAs”) with the federal Department of Education. 20 U.S.C. § 1094(a); 34 C.F.R. § 668.14. The PPAs expressly conditioned Defendants’ initial and continuing participation in Title IV, HEA programs, including the Pell Grant program, upon compliance with specific statutory requirements. One such statutory requirement is contained in 20 U.S.C. § 1094(a)(20) and explicitly requires that Defendants: “Will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities

or in making decisions regarding the award of student financial assistance” 20 U.S.C. § 1094(a)(20) (“Incentive Compensation Ban”). The Incentive Compensation Ban is reiterated in the federal regulations governing the PPAs, 34 C.F.R. § 668.14, as well as expressly stated in the PPAs themselves. (See Case 2:07-cv-00461, Document 128, Ex. 1, at pp. LW 1114-1117; Ex. 2, at pp. 4-7; Ex. 3, at pp. 4-7.)

25. Thus, Defendants’ eligibility to participate and receive federal funds under the Pell Grant program is conditioned upon their compliance with the Incentive Compensation Ban. Accordingly, Defendants’ eligibility to receive state student aid funds pursuant to Minnesota’s student financial aid programs is also conditioned upon their compliance with the Incentive Compensation Ban. In this way, Minnesota law requires compliance with the requirements of Title IV of the HEA, including the Incentive Compensation Ban, as a prerequisite to Defendants’ eligibility to receive state student aid funds.

26. Private institutions, such as Defendants, that lose their eligibility to participate in the Pell Grant program due to failure to comply with the requirements of Title IV of the HEA, including the Incentive Compensation Ban, are not “eligible institutions,” and cannot receive student aid funds pursuant to Minnesota’s student financial aid programs. Minn. Stat. § 136A.103(e).

C. Defendants’ Execution of Institutional Participation Agreements

27. In order to receive student aid funds pursuant to Minnesota’s student financial aid programs, Defendants were also required, and did, enter into two separate institutional participation agreements (“IPA”) with OHE, one for the SELF loan program and the other for the remaining financial aid programs. Minn. R. 4830.0300, subp.2(D); *Minnesota Financial Aid Manual: SELF Loan Program*, § 1, at 4-5 (August 2010), available at <http://www.ohe.state.mn.us/pdf/FAManual/FullFAManual.pdf>.

28. In each IPA, Defendants represented that they were and would remain “eligible institutions” for purposes of Minnesota’s student financial aid programs. Defendants also agreed to comply with all state laws, rules and procedures governing the programs. (Ex. 1, IPA effective July 15, 1997 between Def. Art Institute and OHE, at 1; Ex. 2, IPA effective Jan. 10, 2002 between Def. Argosy and OHE, at 1; Ex. 3, SELF-Loan IPA effective Jan. 31, 2001 between Def. Art Institute and OHE, at 1, 4; Ex. 4, SELF-Loan IPA effective Oct. 29, 2001 between Def. Argosy and OHE, at 1, 4). With respect to the SELF-Loan IPAs, Defendants also agreed “to reimburse [OHE], in an amount not to exceed accrued interest and principal, for any SELF loan found after disbursement to be ineligible due to the Institution’s failure to comply with applicable state law, rules and procedures governing the SELF Program.” (Ex. 3 at 4-5; Ex. 4 at 4-5).

29. Once executed, Defendants’ IPAs remain in force until amended or terminated and are subject to all subsequent changes in Minnesota state law, rules and procedures governing Minnesota’s student financial aid programs. (Ex. 1 at 1-2; Ex. 2 at 1-2; Ex. 3 at 5; Ex. 4 at 5).

D. Defendants’ Presentment of False Claims for Payment or Approval

30. Eligible institutions present, or cause to be presented, claims for the payment or approval of student aid funds to an officer or employee of the State of Minnesota in various ways. Minnesota’s payment or approval of student aid funds to Defendants was conditioned upon Defendants’ qualification as “eligible institutions.”

31. Since at least July 1, 2010, Defendants knowingly presented, or caused to be presented, false or fraudulent claims, statements, certifications, and/or records to the federal government regarding compliance with the Incentive Compensation Ban in order to become and remain eligible to participate in Title IV, HEA financial aid programs, including the Pell Grant program, and receive Title IV funding. Contrary to these knowingly false or fraudulent claims,

statements, certifications, and/or records, Defendants were knowingly in violation of the Incentive Compensation Ban and Regulatory Safe Harbor because their compensation system, as designed and implemented, compensated admissions personnel based upon the number of new students who enrolled in Defendants' institutions. (See Case 2:07-cv-00461, Document 128, ¶¶ 88-168, re-alleged and incorporated herein by reference).

32. Because Defendants were not in compliance with the Incentive Compensation Ban, they were not eligible to participate in the federal Pell Grant program. In turn, because they were not eligible to participate in the federal Pell Grant program, they did not qualify as "eligible institutions" for the receipt of state student aid funds pursuant to Minnesota's student financial aid programs.

33. Since at least July 1, 2010, Defendants presented, or caused to be presented, numerous claims for the payment or approval of student aid funds to an officer or employee of the State of Minnesota that Defendants knew to be false or fraudulent because Defendants knew they did not qualify as "eligible institutions" for the receipt of student aid funds pursuant to Minnesota Statutes section 136A.103.

34. OHE paid or approved the above-mentioned false or fraudulent claims under the erroneous belief that Defendants' qualified as "eligible institutions" for the receipt of student aid funds pursuant to Minnesota's student financial aid programs.

35. Defendants' qualification as "eligible institutions" was material to OHE's decision to pay or approve state student aid funds to Defendants. Had OHE been aware that Defendants' did not qualify as "eligible institutions" at the time Defendants presented, or caused to be presented, the above-mentioned false or fraudulent claims, OHE would not have paid or approved the claims.

36. Each and every request for a state grant, scholarship, or SELF loan that Defendants knowingly presented, or caused to be presented to an officer or employee of the State of Minnesota constitutes a separate false claim by Defendants under the MNFCA.

37. Since at least July 1, 2010, Defendants caused the payment or approval of at least \$1.28 million in Minnesota student aid funding as a direct and proximate cause of the knowingly false or fraudulent claims presented, or caused to be presented by Defendants to an officer or employee of the State of Minnesota.

VI. COUNTS

COUNT I - VIOLATIONS OF MINNESOTA'S FALSE CLAIMS ACT

Minn. Stat. § 15C.02(a) (2010)

38. Minnesota re-alleges and incorporates herein by reference paragraphs 1 through 37 of this Complaint in Intervention.

39. Defendants knowingly presented, or caused to be presented, false or fraudulent claims for payment or approval to an officer or employee of the State of Minnesota, in violation of the MNFCA, § 15C.02(a)(1).

40. As a direct and proximate cause of Defendants' false or fraudulent claims and unlawful conduct, Minnesota has suffered, and continues to suffer, damages in an amount to be determined at trial.

41. Minnesota is entitled to a civil penalty of not less than \$5,500 and not more than \$11,000 for each false or fraudulent claim Defendants knowingly presented, or caused to be presented, to an officer or employee of the State of Minnesota for payment or approval, plus three times the amount of damages that Minnesota has sustained. Minn. Stat. § 15C.02(a). Minnesota is also entitled to recover the costs of this civil action, including reasonable costs,

attorney fees, and the reasonable fees of expert consultants and expert witnesses. Minn. Stat. §§ 15C.02(c), .12.

COUNT II - UNJUST ENRICHMENT

42. Minnesota re-alleges and incorporates herein by reference paragraphs 1 through 37 of this Complaint in Intervention.

43. As described above, Defendants have received and/or have continued to maintain control over state student aid funds to which they were not entitled because they did not qualify as “eligible institutions” for the receipt of such funds pursuant to Minnesota’s student financial aid programs and/or otherwise violated the Incentive Compensation Ban and failed to disclose such violations to the State of Minnesota.

44. As such, Defendants have been unjustly and inequitably enriched by their receipt of student aid funds.

45. As a direct and proximate result of Defendants’ unjust enrichment, Minnesota has suffered damages in an amount to be determined at trial.

VII. PRAYER FOR RELIEF

WHEREFORE, Minnesota demands and prays that judgment be entered in its favor against Defendants, as follows:

1. On Count I, under the Minnesota False Claims Act, for triple the amount of Minnesota’s damages sustained as a result of Defendants’ false claims in an amount to be determined, plus interest, and civil penalties in the amount of not less than \$5,500 and not more than \$11,000 for each false claim pursuant to Minnesota Statutes section 15C.02(a), together with all costs of this civil action, including reasonable attorney fees and the reasonable fees of expert consultants and expert witnesses, and such further relief as may be just and proper.

2. On Count II, for unjust enrichment, for the amount of unjust enrichment, plus pre-judgment and post-judgment interest, costs, and all such further relief as may be just and proper.

3. That judgment be entered in favor of Minnesota and against the Defendants for damages, civil penalties, pre-judgment and post-judgment interest, litigation costs, including attorney and expert fees, investigative costs, disgorgement of all profits, and an accounting, to the fullest extent as allowed by law, and for such further relief as may be just and proper.

VIII. JURY DEMAND

The State of Minnesota demands a trial by jury with respect to all issues so triable.

Dated: September 22, 2011

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota

s/ Jason Pleggenkuhle
JASON PLEGGENKUHLE
Assistant Attorney General
Atty. Reg. No. 0391772
jason.pleggenkuhle@ag.state.mn.us

445 Minnesota Street, Suite 1100
St. Paul, Minnesota 55101-2128
(651) 757-1147 (Voice)
(651) 296-1410 (TTY)

Attorneys for State of Minnesota

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of September, 2011, a true and correct copy of the foregoing COMPLAINT IN INTERVENTION BY THE STATE OF MINNESOTA was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's CM/ECF system. Parties may access this filing through the Court's CM/ECF system.

s/ Jason Pleggenkuhle
JASON PLEGGENKUHLE
Assistant Attorney General